

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Cinemas-Kadapa District- Appeal petition filed by Sri G.Abdul Sattar, against the orders of the Joint Collector and Licensing Authority, Kadapa – Appeal rejected- Orders-Issued.

HOME (GENERAL.A1) DEPARTMENT

G.O.Rt.No.1217

Dated: 26-06-2008.
Read the following:-

1. From Sri G.M.D.Yosuf, S/o late Abdul Jalleel, Rayachoty, Kadapa District, dated 27.03.2008.
2. From G.Abdul Sattar, S/oAbdul Jallel, Managing partner of Sony Raj A/C Theater & Sydia A/C Theatre Rayachoty, Kadapa District, dated 29.03.2008.
3. Govt.Memo.No.10415/Genl.A1/2008-1, dated 08-04-2008.
4. Govt.Memo.No.10415/Genl.A1/2008-2, dated 05-05-2008.
5. From the District Collector, Kadapa, Lr.No.Ref.C4/ 857/ M/2007, dated 09-05-2008.
6. Memo filed by the Counsel for the Appellant of G. Abdul Sattar, dated 17-05-2008.

ORDER:

In the reference first read above, Sri G.M.D. Yousuf S/o late Abdul Jallel, Rayachoty, Kadapa District, has filed a Caveat petition before the Government stating that, the petitioner is one of his brothers, and that himself, and his brothers are the respondents and lawful owners of the Theatres i.e., Sony Raj A/C Theater and Sydia A/C Theatres in Rayachoty, Kadapa District, as such, he has requested to issue notice to him or his counsel before passing any orders on the appeal filed by the Petitioner, if any, on the file assailing the proceedings in R.Dis.C4/857/M/2007, dated 25-03-2008, issued by the Joint Collector, Kadapa District, and pass such orders as are deemed fit.

2. In the reference second read above, Sri G.Abdul Sattar, S/o Late Abdul Jaleel, Rayachoty, Kadapa District, has filed an Appeal petition, against the orders of the Joint Collector, Rayachoty, Kadapa District.

3. The Government have called for the detailed report along with relevant records to dispose the appeal for further examination from the District Collector, Kadapa, on the Appeal Petition, as well as on the Caveat Petition, in Govt. Memo.No.10415/Genl.A1/2008-1, dated 8-4-2008, and in Govt. Memo.No.10415/Genl.A1/2008-2, dated 05-05-2008.

4. Whereas, the District Collector, Kadapa, in the reference fifth read above, has reported that Smt.G.Mujjibunnisa, 'B' Form licence holder of M/s Sony Raj and M/s Sydia Picture Palace, Rayachoty, expired on 18.11.2007, and the legal heir have formed into two groups, quarrelling with each other and expressed different views regarding running of the

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Theatres, and that the 'B' Form licences were not renewed for the year 2007-2008, and hence, recommended for suspension of the 'B' Form Licences of both the Theatres and also for closure of the Theatres. Further, as required under section 5(2)(a) of A.P. Cinematography Rules and Regulations, 1970, the legal heirs of the Licence have to inform the Joint Collector & Licensing Authority, the death of the Licensee within (30) days. In the instant case, none of the legal heirs has applied either for renewal or transfer of 'B' Form Licences of both the Theatres or informed the death of the licensee within the stipulated time. Show cause notices were issued to all the legal heirs of the licensee in their office Ref.C4/857/M/2007, dated 11-03-2008, directing them to offer their explanation within seven days as to why 'B' Form licences which were granted in favour of their mother should not be cancelled, and to close the Theatres.

5. Further, the District Collector, Kadapa, reported that the legal heirs have offered their explanation stating that, there are disputes with regard to their family properties, including the above Theatres and a Suit in O.S.No.1/06, is also pending on the file of IV Additional, District Judge Court, Kadapa. The Revenue Divisional Officer, Kadapa, has reported that 'B' Form licences of the Theatres are not renewed for the year 2007-2008, due to the disputes among the family members of the deceased. Further, the explanation offered by the legal heirs is not acceptable, as it is not in conformity with the A.P. Cinemas (Regulation) Rules, 1970, as none of them have established full right over the theatres with authenticated documentary evidence. Since both the Theatres have been functioning without valid 'B' Form licences and none of the legal heirs has applied for further renewal of 'B' Form licences, orders were issued by the Joint Collector, Kadapa, in Proceedings C4/857/M/2007, dated 25-03-2008, suspending the 'B' Form licences of both the Theatres and also for closure of the Theatres.

6. The District Collector, Kadapa, has further reported that, according to Rule 11(e) of A.P. Cinematography Rules, 1970, the appellant has to establish full right over the Theatre. Smt.G.Mujibunnisa 'B' Form Licence holder of the Theatres, died on 18.11.2007. The Legal heirs have failed to renew or transfer the licence due to dispute among themselves. Further, the appellant and other legal heirs have agreed that there is a suit in O.S.No.1/2006, pending in the Court of IV Additional District Judge, Kadapa, regarding the partition of entire properties, including the subject Theatres. Further, the Theatres are being run without valid 'B' Form licenses. Hence, orders were issued in Proceedings C4/857/M/2007, dated 25-3-2008, suspending the 'B' Form licences of both the Theatres and ordered to close the Theatres. The orders passed by the Licensing Authority are in accordance with the A.P. Cinematography Act & Rules, 1970, and not violated any principles, and the contents adduced in the appeal petition are totally false and not based on recorded evidence. Hence, the appeal filed by Sri G.Abdul Sattar S/o Late G.Abdul Jaleel, may be dismissed.

7. Accordingly, an opportunity of hearing was given to the both parties on 27-5-2008, but the appellant did not attend, but the Caveat Petitioner and the Respondents attended, and submitted their written

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arguments to the Appellate Authority, and the case was posted for further hearing on 6-6-2008, and both the parties attended the hearing with their counsel members and a copy of the written arguments filed by the Caveat Petitioner and the Respondent were served to each of the parties for reference.

8. The Written arguments submitted by the Appellant (Sri G. Abdul Sattar) are here under:

1. That the appellant's father viz., Abdul Jaleel, acquired number of properties during his life time. After death of Appellant's father, the Appellant, his mother Smt. Mujeebunnisa, along with five brothers were in possession and enjoyment of the properties acquired by his father, Appellant's family owns and possesses half share and entitlement in Sydia Picture Place. The other half share is held by the family of M/s Lathif.
2. That in the year 2006, G.M. Yousuf and others created difficulties in running the Theaters, and suit in O.S No. 1 of 2006, on the file of Prl.District Judge, Kadapa, has been filed by all of them i.e., Appellant's mother, Appellant and five brothers for partition and separate possession which is still pending adjudication.
3. That the Appellant's mother stayed with Appellant's last brother, at the instance and instigation, filed application dated 20-10-2007, to the Tahsildar, Raychoti Mandal, Kadapa District, for a permission to stop screening of films in the Theatre for a period of two months to carry out minor repairs. The validity of B-Form licence which is meant for screening the films would come to end by 30-1-2007. The Appellant on 5-9-2007, applied to the Joint Collector, Kadapa, for grant of renewal of licence for a further period of two 2 years and through a notice on 24-10-2007, and after offering explanation on the request made by Mujeebunnisa, on 24-10-2007, the Tahsildar recorded a statement from Appellant and finally passed the order dated 29-10-2007, and the said order is without jurisdiction.
4. That in the mean time on 18-11-2007, appellants mother passed away. Under family Settlement, dated 27-3-2003, the Appellant have right to continue till 17-4-2015, and O.S.No. 1 / 2006, is pending before Competent Civil Court.
5. That he has submitted the demise of his mother in whose favour the B-Form licence stood by certificate of posting dated 6-12-2007, and he complied the Rule 5(2)(a) of the A.P.Cinemas (Regulation) Rules, 1970.
6. That the Appellant applied for renewal of the B-Form Licence of M/S Sony Raj Theatre on 5-9-2007 and 6-12-2007, clearly informing the demise of his mother and request has been made for renewal of licence in Appellant favour.

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7. That the appellant is surprised to note that on 25-3-2008, without enquiry or opportunity of hearing and without looking into the explanation dated 24-03-2008, suspension of B-Form Licence and closure of Theatres was ordered.
9. The Written arguments submitted by the Respondent (Sri G.Md. Yousuf, S/o Late G.A.Jaleel) are as here under:
 1. That all through the 'B' Form Licence stood in the name of Late Smt.G Mujibunissa only.
 2. That during her life time, she gave an application dated 4-10-2007, to the Joint Collector, Kadapa, to accord permission to close down the theatre for three months to carrying out repairs.
 3. That the said late Smt. G.Mujibunissa gave a representation dated 8-11-2007, to the Revenue Divisional Officer, Kadapa, requesting him not to renew the licence, in view of the differences and litigations among the family members, pending the same the said Mujibunissa, died on 18-11-2007.
 4. That thereafter the family members except the appellant represented on 21-11-2007 to the Joint Collector and Revenue Divisional Officer, to suspend the licence which stood in the name of their mother and not to issue any licence to anybody including the appellant herein, since the appellant is creating and fabricating false documents basing on which is trying to obtain 'B' Form Licence. The appellant herein made representations to Joint Collector and Revenue Divisional Officer to grant 'B' Form Licence, in his favour basing on the fictitious documents.
 5. That the Collector, Kadapa, issued a show cause notice calling upon us as to give explanation as to why 'B' Form Licence granted in favour of our mother should not be cancelled, and on submission of explanation and against requested to suspend the license and to close down the theatre, the appellant submitted his explanation on 24-3-2008, and final orders were issued on 25-3-2008.
 6. That in view of the facts it is clear that the District Collector, Kadapa, after giving opportunity to both parties and after considering the material on record has passed the order. Hence, the contention of the appellant that the District Collector, Kadapa, passed the above order without affording opportunity to him is not true and further there is no violation of principle's of natural justice, since ample opportunity was given to the appellant and wherever enquiry it was conducted by the authorities was conducted in the presence of both the parties. The impugned order was passed as per the rules and the appellant has approached this appellant authority without any prima facie case

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in his favour. Hence he stated that there are no merits in the above appeal and requested the authority to dismiss the same in the interest of justice.

10. Whereas, the Appellate Authority heard the arguments and based on the written arguments submitted by both the parties it was observed that Joint Collector and Licensing Authority, Kadapa District, has suspended the 'B' Form licenses of both the Theatres and also for closure of the Theatres i.e., Sony Raj A/C and Sydia A/C in Rayachoty, Kadapa District, mainly on the ground that the appellants did not file any documentary evidence to provide their clear title or possession over the Theatres in question. The Licensing Authority suspended the B-form licence and ordered closure of the Theatres on the ground that the Theatres under litigation and the parties have not produced any documentary evidence to prove their legal possession. Hence, he has suspended the B-form license and ordered for closures of the Theatres. In this connection, it may be stated that there is a dispute with regard to their family properties including the said Theatres, and also a suit in O.S.No.1/06, is pending before the Hon'ble Court of IV Additional District Judge, Kadapa.

11. Whereas, the Appellate Authority keeping in view of the facts submitted by both the parties, and after careful examination of records and the request of Smt G.Mujibunnisa the proprietor and 'B' Form License holder of M/S Sony Raj and M/S Sydia Picture Palace, Rayachoty, who had applied for closure of M/S Sony Raj Theatre to carry out repairs, and after the expiry of Smt G.Mujibunniasa, 'B' Form licensee, on 18-11-2007, none of the legal heirs reported the death of the licensee to the licensing authority, as required under section 5 (2)(a) of the A.P. Cinemas (Regulation) Rules,1970, within the stipulated time, and no one has established full right over the theatres with authenticated documentary evidence. As the appellant could not establish his title or lawful possession over Theatres in question to continue or renew the Cinema licence, as required under Rule 8-A (2)(b) and 11-B(2) of the Andhra Pradesh Cinemas (Regulation) Rules,1970, the appeal petition filed by Sri G. Abdul Sattar, S/o Late Abdul Jaleel, against the orders of the Joint Collector & Licensing Authority, Kadapa, is here by rejected.

12. The records received with the letter are returned to the District Collector, Kadapa, and he is requested to acknowledge the receipt of the same.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

AJOYENDRA PYAL,
PRINCIPAL SECRETARY TO GOVERNMENT.

To
The District Collector, Kadapa.
The Joint Collector & Licensing Authority, Kadapa.

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Copy to Sri G.Abdul Sattar,
S/o Abdul Jallel, Door No.58/169,
Kamsala Street, Rayachoty.
Kadapa District.

Copy to Sri G.M.D.Yousuf,
S/o G.A.Jallel, Door No.58/169,
Kamsala Street, Rayachoty,
Kadapa District.

Copy to the P.S to Pri.Secy to Govt Home Department.

Copy to the P.S to Minister (I&PR,Cine,T.C., A&M.A)
S.F./SCs

//FORWARDED:: BY ORDER//

SECTION OFFICER.